

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

VIVIANE JOSEPH, TIMOTHY MOFFITT and
MEGAN COTRONE, *on behalf of themselves*
and all others similarly situated,

Plaintiffs,

-against-

JETBLUE AIRWAYS CORPORATION,
a Delaware corporation,

Defendant.

CASE NO.: 5:11-CV-1387 (TJM/ATB)
CLASS ACTION COMPLAINT

NOTICE OF MOTION

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law, defendant JetBlue Airways Corporation ("JetBlue"), by its undersigned counsel Holland & Knight LLP, respectfully moves this Court at the United States District Court for the Northern District of New York, United States District Courthouse, United States District Courthouse, 15 Henry Street, Binghamton, N.Y. 13901 on January 27, 2012 at 10:00am, or as soon thereafter as counsel can be heard, before the Honorable Thomas J. McAvoy, United States District Judge, Northern District of New York, for an order pursuant to Federal Rule of Civil Procedure 12(b)(6), to dismiss the putative class action Complaint of Plaintiffs Viviane Joseph, Timothy Moffitt, and Megan Cotrone in its entirety on the grounds that: (1) Plaintiffs' state law statutory and tort claims are expressly preempted by the Airline Deregulation Act of 1978 ("ADA"), 49 U.S.C. § 41713(b)(1); (2) Plaintiffs' state law statutory and tort claims are impliedly preempted by the Federal Aviation Act ("FAA"), 49 U.S.C. §§ 40101 *et seq.*, and its implementing regulations; and (3) Plaintiffs fail to set forth facts necessary to state a claim upon which relief may be granted for each of their causes of action.

PLEASE TAKE FURTHER NOTICE that opposition papers, if any, must be filed with this Court and served upon the other parties to this action by or before January 10, 2012. Reply papers will be filed and served by or before January 17, 2012.

Dated: New York, New York
December 27, 2011

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: _____/s/_____
Sean C. Sheely
Christopher G. Kelly (*admission pending*)
Judith R. Nemsick (*admission pending*)

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